



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/816,093	04/01/2004	Derek Wyatt	3084.EEM	9478

7590 11/24/2009
JANE E. GENNARO
National Starch and Chemical
10 Finderne Avenue
Bridgewater, NJ 08807

EXAMINER

PATTERSON, MARC A

ART UNIT	PAPER NUMBER
----------	--------------

1794

MAIL DATE	DELIVERY MODE
-----------	---------------

11/24/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/816,093
Filing Date: April 01, 2004
Appellant(s): WYATT, DEREK

Jane E. Gennaro
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed August 21, 2009 appealing from the Office action mailed May 29, 2009.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,579,537 B2	SEELICH et al.	6-2003
20030055179	OTA et al.	3-2003

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 14 - 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seelich et al. (U.S. Patent No. 6,579,537 B2) in view of Ota et al (U.S. Patent Publication No. 2003/0055179).

With regard to Claims 14, Seelich et al disclose a syringe, therefore a container, filled with an adhesive, which is frozen and thawed before use (column 12, lines 45 - 53); Seelich et al therefore disclose a method consisting essentially of filling a container with adhesive, freezing the adhesive within the container and thawing the adhesive; Seelich et al do not disclose an adhesive that is cured; the claimed aspect of the adhesive being uncured therefore reads on Seelich et al. Seelich et al fail to disclose a container having a flexural modulus of less than or equal to 1240 MPa and a thickness of 0.0254 mm to 0.762 mm.

Ota et al teach a syringe (paragraph 1317) having a flexural modulus of less than or equal to 1240 MPa (paragraph 2691) and a thickness of 0.0254 mm to 0.762 mm (paragraph 1311) for the purpose of obtaining a syringe that has a good balance of transparency and heat resistance (paragraph 0015). One of ordinary skill in the art would therefore have recognized the advantage of providing for the adhesive of Ota et al in Seelich et al, which comprises a syringe, depending on the desired properties of the end product.

It therefore would have been obvious for one of ordinary skill in the art at the time Applicant's invention was made to have provided for a flexural modulus of less than or equal to 1240 MPa and a thickness of 0.0254 mm to 0.762 mm in Seelich et al in order to obtain a good balance of transparency and heat resistance as taught by Ota et al. Seelich et al would therefore

Art Unit: 1794

disclose a method for reducing freeze / thaw voids in uncured adhesive consisting essentially of providing the container, filling the container with the adhesive, and freezing and thawing the adhesive.

With regard to Claim 15, the material taught by Ota et al comprises polyethylene (paragraph 0120).

With regard to Claim 16, because Ota et al teach a syringe comprising a liquid, it would have been obvious for one of ordinary skill in the art to provide a rigid sleeve, for the purpose of preventing bending of the syringe and subsequent loss of liquid.

(10) Response to Argument

Appellant argues that there is no apparent reason in Ota et al or Seelich et al to combine their elements to reduce freeze thaw voids, and that the result of the claimed invention is therefore not intended by Ota et al or Seelich et al.

However, as stated in the previous Action, it would have been obvious for one of ordinary skill in the art, in view of Ota et al, to have provided for a syringe having a flexural modulus of less than or equal to 1240 MPa and a thickness of 0.0254 mm to 0.762 mm in Seelich et al. It would therefore have been obvious to provide for a reduction of freeze thaw voids, as claimed.

Appellant also argues that transparency and heat resistance, which are mentioned in the references, are independent of the presence of freeze thaw voids, which are not mentioned, and that it is possible to have transparency and heat resistance and still have freeze thaw voids.

Art Unit: 1794

However, the properties of transparency and heat resistance provide reasons for providing for a syringe having a flexural modulus of less than or equal to 1240 MPa and a thickness of 0.0254 mm to 0.762 mm in Seelich et al, thus providing for a reduction of freeze thaw voids as claimed; furthermore, although it is possible to have transparency and heat resistance and still have freeze thaw voids, the absence of freeze thaw voids is not claimed.

Appellant also argues that it is not predictable that the absence of freeze thaw voids would occur from the teachings of Ota et al and Seelich et al.

However, as stated above, the absence of freeze thaw voids is not claimed; furthermore, because it would have been obvious in view of Ota et al to provide in Seelich et al a syringe having a flexural modulus of less than or equal to 1240 MPa and a thickness of 0.0254 mm to 0.762 mm, it would have been obvious, therefore predictable, to have provided a reduction in freeze thaw voids.

Appellant also argues that there is no mention in Ota et al or Seelich et al of the roughening of the syringe wall.

However, the claimed invention was read for purposes of examination as part (i) of the claimed invention and also either part (ii) or (iii), therefore having either 'a thickness of 0.0254 mm to 0.762 mm,' which is taught by Seelich et al, or 'a mean roughness value of greater than 0.3 μm .' Furthermore, the roughening of the syringe walls is not claimed.

Art Unit: 1794

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Marc A Patterson/

Primary Examiner, Art Unit 1794

Conferees:

/Rena L. Dye/
Supervisory Patent Examiner, Art Unit 1794

/Christopher A. Fiorilla/
Chris Fiorilla
Supervisory Patent Examiner, Art Unit 1700